

CARL P. WARRING
HEATHER C. YAKELY
Evans, Craven & Lackie, P.S.
818 W. Riverside Ave., Suite 250
Spokane, WA 99201-0910
(509) 455-5200
cwarring@ecl-law.com
hyakely@ecl-law.com
abrown@ecl-law.com
Attorneys for Defendants

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

JOHN MICHAEL HAYS,

Plaintiff(s),

vs.

DEPUTY JOSEPH ADAMS,
individually and in his professional
capacity. DEPUTY ELIJAH JONES,
individually and in his professional
capacity, DEPUTY STEPHAN
BLAAKMAN, individually and in
his professional capacity, DEPUTY
DAVIS FRENCH, individually and
in his professional capacity,
DEPUTY STEFAN MOORE,
individually and in his professional
capacity, DEPUTY MICAH
LEIGHTON, individually and in his
professional capacity, SARGENT
RANDY WATTS, individually and
in his professional capacity,
DEPUTY VINCE MCKENZIE,
individually and in his professional
capacity, DEPUTY AMBER
TYLER and K9 JAGER,
individually and in their professional
capacity, SPOKANE COUNTY,
SPOKANE COUNTY SHERIFF'S
DEPARTMENT. and SPOKANE

No. 2:23-cv-00141-TOR

DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT FOR
DAMAGES AND JURY DEMAND
AND COUNTERCLAIM FOR
MALICIOUS PROSECUTION

DEFENDANTS' ANSWER AND JURY DEMAND AND
COUNTERCLAIM - page 1

COUNTY SHERIFF OZZY
KNEZOVICH;

Defendant(s).

The Defendants, by and through the undersigned counsel of record, hereby admit, deny, and allege as follows:

I. INTRODUCTION

1.1 The allegation is an introductory statement describing the nature of Plaintiff's lawsuit and not a short and plain statement of the claim showing that the pleader is entitled to relief as required by Fed. R. Civ. Pro. 8 and therefore no answer is required.

II. PARTIES, JURISDICTION, AND VENUE

2.1 Admitted.

2.2 Admitted in part, denied in part. The individuals named as defendants were employed as law enforcement officers for the Spokane County Sheriff's Office at the time of the criminal arrest that gives rise to this action. The actions taken to arrest Plaintiff were done in their official capacity as law enforcement officers. Any allegation or inference from an allegation not specifically admitted is denied.

1 2.3 Admitted in part, denied in part. Spokane County is a governmental
2
3 entity within the State of Washington. The Spokane County Sheriff's Office is a
4 department of Spokane County. Any allegation or inference from an allegation
5 not specifically admitted is denied.
6

7 2.4 Admitted.
8

9 2.5 Admitted in part, denied in part. Defendants admit that the Federal
10 District Court has jurisdiction over this lawsuit and the matter has been properly
11 removed from the Spokane County Superior Court. Any allegation or inference
12 from an allegation not specifically admitted is denied.
13
14

15 2.6 Admitted in part, denied in part. Defendants admit that the Eastern
16 District of Washington is the proper venue for this matter because the events
17 giving rise to this lawsuit are alleged to have occurred within the Eastern District
18 of Washington. Any allegation or inference from an allegation not specifically
19 admitted is denied.
20
21

22 **III. FACTUAL HISTORY**

23
24 4.1 [sic] Admitted in part, denied in part. Defendants admit that on April
25 24, 2021, Victoria Collier reported to Deputy Joseph Adams that earlier in the
26 evening she and Hays were at a pool tournament together, argued, and Hays left
27 to return to their shared residence. Any allegation or inference from an allegation
28 not specifically admitted is denied.
29
30

DEFENDANTS' ANSWER AND JURY DEMAND AND
COUNTERCLAIM - page 3

1 4.2 Admitted in part, denied in part. Defendants admit that on April 24,
2
3 2021, Victoria Collier reported to Deputy Joseph Adams that upon returning to her
4 residence she was confronted by Hays, physically pushed, and told to “get the fuck
5 out.” Collier further reported that she called out for her daughter Summer Castro.
6
7 Any allegation or inference from an allegation not specifically admitted is denied.
8

9 4.3 Admitted in part, denied in part. Defendants admit that on April 24,
10 2021, Victoria Collier reported to Deputy Joseph Adams that while she was
11 packing a bag to leave her shared residence with Hays, Hays threw an object at
12 her, which struck her in the head causing significant pain and bleeding. Summer
13 Castro also reported that when she attempted to intervene Hays assaulted her by
14 physically shoving her. Castro reported witnessing Hays physically shove Collier
15 and strike Collier with a thrown object. Any allegation or inference from an
16 allegation not specifically admitted is denied.
17
18
19
20

21 4.4 Admitted in part, denied in part. Defendants admit that Jenny Slater
22 initiated a 9-1-1 call on April 24, 2021, to report the incident of domestic violence
23 perpetrated by Hays against Collier. The 9-1-1 call was recorded, and the
24 recording speaks for itself. Any allegation or inference from an allegation not
25 specifically admitted is denied.
26
27

28 4.5 Admitted.
29

30 4.6 Admitted.

1 4.7 Admitted in part, denied in part. Defendants admit that law
2 enforcement officers, upon arriving at the Hays-Collier residence, observed Hays
3 vehicle parked at the residence. Any allegation or inference from an allegation
4 not specifically admitted is denied.
5
6

7 4.8 Admitted in part, denied in part. Defendants admit that Deputy
8 Adams interviewed Collier and Castro and Sgt. Randy Watts was present at the
9 scene of the interview. Collier informed Deputy Adams and Sgt. Watts that she
10 was unsure if Hays had any weapons. Any allegation or inference from an
11 allegation not specifically admitted is denied.
12
13

14 4.9 Admitted in part, denied in part. At the time Deputy Adams sought
15 a search warrant, officers had attempted 36 calls to Hays' phone and attempted to
16 reach Hays through PA announcements. Hays failed to communicate or otherwise
17 cooperate with officers at that point. Any allegation or inference from an
18 allegation not specifically admitted is denied.
19
20
21

22 4.10 Admitted.
23

24 4.11 Admitted.
25

26 4.12 Admitted.
27

28 4.13 Admitted.
29

30 4.14 Admitted.

 4.15 Admitted.

1 4.16 Admitted in part, denied in part. Defendants admit that Deputy
2 Micah Leighton was dispatched to the scene at approximately 3:05 a.m. Any
3 allegation or inference from an allegation not specifically admitted is denied.
4

5 4.17 Admitted.
6

7 4.18 Admitted.
8

9 4.19 Admitted in part, denied in part. Defendants admit that officers
10 eventually entered the residence and searched for Hays. During the search officers
11 located a step stool near an attic crawl hole and observed insulation on the floor.
12 Any allegation or inference from an allegation not specifically admitted is denied.
13
14

15 4.20 Admitted.
16

17 4.21 Admitted in part, denied in part. Defendants admit that Deputy Tyler
18 warned Hays of the potential for being bitten by her K-9. Any allegation or
19 inference from an allegation not specifically admitted is denied.
20

21 4.22 Admitted in part, denied in part. Defendants admit that Hays failed
22 to comply with commands and the application of force became necessary.
23 Defendants further admit that as Deputy Adams and Deputy Blaakman attempted
24 to remove Hays from the attic, Hays physically resisted the arrest and swung his
25 legs in a way that created a risk of injury to the officers. Defendants further admit
26 that pain compliance strikes were ineffective in securing Hays' compliance. Any
27 allegation or inference from an allegation not specifically admitted.
28
29
30

DEFENDANTS' ANSWER AND JURY DEMAND AND
COUNTERCLAIM - page 6

1 4.23 Admitted in part, denied in part. Following Hays' failure to comply
2 with commands, his physical resistance to the arrest (including swinging his legs
3 in a way that created a risk of injury to the officers), Hays' failure to succumb to
4 pain compliance strikes, and the warning of an impending dog bite, Deputy Tyler
5 permitted her K-9 to bite Hays to force compliance with the arrest. Any allegation
6 or inference from an allegation not specifically admitted is denied.
7
8
9

10 4.24 Admitted in part, denied in part. Defendants admit that Deputy
11 McKenzie observed the application of the bite to Hays. Any allegation or
12 inferred from an allegation not specifically admitted is denied.
13
14

15 4.25 Admitted in part, denied in part. Following Hays' failure to comply
16 with commands, his physical resistance to the arrest (including swinging his legs
17 in a way that created a risk of injury to the officers), Hays' failure to succumb to
18 pain compliance strikes, and the warning of an impending dog bite, Deputy Tyler
19 permitted her K-9 to bite Hays to force compliance with the arrest. Any allegation
20 or inference from an allegation not specifically admitted is denied.
21
22
23

24 4.26 Admitted in part, denied in part. Defendants admit that Deputy Tyler
25 ensured her K-9 released Hays from the bite as soon as practical after Hays was
26 secured by the officers who were actively engaged with restraining Hays. Any
27 allegation or inference from an allegation not specifically admitted is denied.
28
29

30 4.27 Admitted.

1 4.28 Denied.

2 4.29 Admitted.

3 4.30 Admitted.

4 4.31 Admitted in part, denied in part. Defendants admit Deputy McKenzie
5 transported Hays to the hospital for treatment and Hay told hospital staff they
6 could call him Brian or Phillip. Any allegation or inference from an allegation not
7 specifically admitted is denied.
8

9 4.32 Admitted.

10 4.33 Admitted in part, denied in part. Defendants admit that after Hays
11 was secured no weapon was located on his person. Any allegation or inference
12 from an allegation not specifically admitted is denied.
13

14
15
16
17
18 **IV. FIRST CAUSE OF ACTION: VIOLATION OF PLAINTIFF'S**
19 **CONSTITUTIONAL RIGHTS PURSUANT TO THE**
20 **CONSTITUTION OF THE UNITED STATES AND THE**
21 **WASHINGTON STATE CONSTITUTION**

22 Defendants re-allege and incorporate paragraphs 4.1 through 4.33 as
23 paragraphs 5.1 through 5.33.

24 5.33 Denied.

25 5.34 Denied.

26 5.35 Denied.

27 5.36 Denied.

1 5.37 Denied.

2 5.38 Denied.

3
4 **V. SECOND CAUSE OF ACTION: EXCESSIVE FORCE &**
5 **ASSAULT/BATTERY**

6 Defendants re-allege and incorporate paragraphs 4.1 to 4.32 as paragraphs
7 6.1 to 6.32.

8
9 5.33 [*sic*]Denied.

10
11 6.34 Denied.

12 6.35 Denied.

13 6.36 Denied.

14 6.37 Denied.

15 6.38 Denied.

16 6.39 Denied.

17 6.40 Denied.

18 6.41 Denied.

19 6.42 Denied.

20 6.43 Denied.

21
22 **VI. THIRD CAUSE OF ACTION: AGENCY THEORY**

23 Defendants re-allege and incorporate paragraphs 4.1 to 4.32 as paragraphs
24 7.1 to 7.32.

1 7.33 Denied.

2 7.34 Denied.

3
4 **VII. FOURTH CAUSE OF ACTION: DOCTRINE OF *RESPONDEAT***
5 ***SUPERIOR***

6 Defendants re-allege and incorporate paragraphs 4.1 to 4.32 as paragraphs
7 8.1 to 8.32.

8
9 8.33 Denied.

10 8.34 Denied.

11 8.35 Denied.

12
13
14 **VIII. FIFTH CAUSE OF ACTION: NEGLIGENT TRAINING,**
15 **RETENTION AND SUPERVISION**

16 Defendants re-allege and incorporate paragraphs 4.1 to 4.32 as paragraphs
17 9.1 to 9.32.

18
19 9.33 Denied.

20 9.34 Denied.

21 9.35 Denied.

22 9.36 Denied.

23 9.37 Denied.

24 9.37 [*sic*] Denied.

25 9.38 Denied.

1 9.39 Denied.

2 9.40 Denied.

3 9.41 Denied.

4 9.42 Denied.

5 9.43 Denied.

6 9.44 Denied.

7 9.45 Denied.

8 9.46 Denied.

9 9.47 Denied.

10 **IX. SIXTH CAUSE OF ACTION: COMMON LAW NEGLIGENCE**

11 Defendants re-allege and incorporate paragraphs 4.1 to 4.32 as paragraphs
12 10.1 to 10.32.

13 10.33 Denied.

14 10.34 Denied.

15 10.35 Denied.

16 10.35 [*sic*] Denied.

17 10.36 Denied.

18 10.37 Denied.

19 10.38 Denied.

1 10.39 Denied.

2 10.40 Denied.

3 10.41 Denied.

4 10.42 Denied.

5 10.43 Denied.

6 10.44 Denied.

7 10.45 Denied.

8
9
10
11 **X. SEVENTH CAUSE OF ACTION: OUTRAGE; INTENTIONAL**
12 **INFLECTION OF EMOTIONAL DISTRESS**

13 Defendants re-allege and incorporate paragraphs 4.1 to 4.32 as paragraphs
14 11.1 to 11.32.

15 11.33 Denied.

16 11.34 Denied.

17 11.35 Denied.

18
19
20
21 **XI. PRAYER FOR RELIEF**

22 The allegation is a prayer for relief and therefore no answer is necessary.
23
24 To the extent an answer is deemed necessary, the allegation is denied.
25

26
27 **XII. JURY DEMAND**

28 The Defendants join in Plaintiff's demand for a jury.
29
30

1 **XIII. AFFIRMATIVE DEFENSES**

2 By Way of further answer and affirmative defenses, defendants allege.

3
4 13.1 **RES JUDICATA** – that plaintiff's action(s) against the defendants is
5
6 barred by the doctrine of res judicata and/or collateral estoppel.

7 13.2 **COMPARATIVE FAULT** – that to the extent plaintiff can state a
8
9 cause of action sounding in negligence, the injuries and damages arising from the
10
11 negligence claim, if any, were proximately caused or contributed to by the fault of
12
13 plaintiff as defined by RCW 4.22.015.

14 13.3 **ASSUMPTION OF RISK** – that to the extent plaintiff can state a
15
16 cause of action sounding in negligence, the injuries and damages arising from the
17
18 negligence claim, if any, arise out of a condition of which plaintiff had knowledge
19
20 and to which plaintiff voluntarily subjected himself.

21 13.4 **FAILURE TO STATE A CLAIM** – that to the extent plaintiff has
22
23 named a K-9 as a party to this action, the plaintiff has failed to state a claim upon
24
25 which relief may be granted.

26 13.5 **PRIVILEGE** – that the conduct of the defendant(s) was privileged and
27
28 non-tortious.

29 13.6 **QUALIFIED IMMUNITY** – that the defendant is immune from suit
30
and federal law qualified immunity.

DEFENDANTS' ANSWER AND JURY DEMAND AND
COUNTERCLAIM - page 13

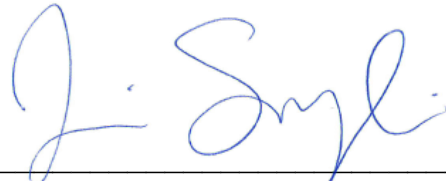
CERTIFICATE OF SERVICE

The undersigned hereby certifies that under penalty of perjury under the laws of the state of Washington, that on the 14th day of June 2023, the foregoing was delivered to the following persons via Regular Mail and Email:

Attorneys for Plaintiff

Douglas D. Phelps
Phelps & Associates, P.S.
2903 N. Stout Rd
Spokane, WA 99206
Email: phelps@phelpslaw.com

Via Regular Mail	<input checked="" type="checkbox"/>
Via Certified Mail	<input type="checkbox"/>
Via Overnight Mail	<input type="checkbox"/>
Via Facsimile	<input type="checkbox"/>
Hand Delivered	<input type="checkbox"/>
Via Email	<input checked="" type="checkbox"/>



Jessie Smylie, Legal Assistant